UNITED
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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-second session
Agenda item 3

REVIEW OF THE WORK OF THE SUB-COMMISSION

Amendment to draft resolution E/CN.4/Sub.2/1990/L.7

Submitted by Mr. Despouy

New rules of procedure for the Sub-Commission on Prevention of Discrimination and Protection of Minorities

Replace operative paragraph 2 by the following text:

"2. Decides to continue applying the present Rules of Procedure until a decision is taken by the Economic and Social Council on the above-mentioned draft".

GE.90-12753/4263a

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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-second session

Agenda item 5 (a)

ELIMINATION OF RACIAL DISCRIMINATION

MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION
AND THE ROLE OF THE SUB-COMMISSION

Amendment to draft resolution E/CN.4/Sub.2/1990/L.5
submitted by Mr. Eide

Further measures to combat racism and racial discrimination
and the role of the Sub-Commission

Add new operative paragraph 5 and renumber subsequent paragraphs accordingly:

"Requests the Secretary-General to explore ways by which the Sub-Commission can have, at its forty-third session, a joint meeting for one day with the Committee on the Elimination of Racial Discrimination;".

GE.90-12759/7338A

READEX FICHE

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Sub-Commission on Prevention of
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of Minorities
Forty-second session

Agenda item 5 (a)

ELIMINATION OF RACIAL DISCRIMINATION

MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION

Amendment to draft resolution E/CN.4/Sub.2/1990/L.6
submitted by Mr. van Boven

Measures to combat racism and racial discrimination
and the role of the Sub-Commission

Add new operative paragraph 2 and renumber subsequent paragraphs accordingly:

"Decides to transmit the recommendations contained in his study, as revised in the light of the discussion at the present session of the Sub-Commission, to the Secretary-General so that they may be taken into account in further efforts to combat racism and racial discrimination;".

GE.90-12765/7339A

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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
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of Minorities
Forty-second session
Agenda item 3

REVIEW OF THE WORK OF THE SUB-COMMISSION

Amendments to draft resolution E/CN.4/Sub.2/1990/L.7
submitted by Mr. Louis Joinet

New rules of procedure for the Sub-Commission on Prevention
of Discrimination and Protection of Minorities

Second preambular paragraph: At the end of the paragraph, the words "an expert body such as the Sub-Commission" should be replaced by the following:

"a body of experts such as those of the Sub-Commission who should enjoy guarantees of independence as emphasized by the International Court of Justice in paragraphs 43, 47, 50, 51, 52, 54 and 55 of its advisory opinion of 15 December 1989";

Fourth preambular paragraph: The words "after the vote" should be added after "explanations of vote";

At the end of the paragraph, the words "thus actually preventing expert members from stating clearly and properly their views on the texts submitted for such votes," should be deleted;

Fifth preambular paragraph: At the end of the paragraph, the following phrase should be added: ", and that this opinion should be interpreted in the light of rule 5, paragraph 4 (ii), and rule 58 of the rules of procedure";

Operative paragraph 1: At the end of the paragraph, the words "as an expert body" should be replaced by "as a body of independent experts".

Operative paragraphs 2 and 3: The two paragraphs should be replaced by a single paragraph reading:

"Requests the Working Group to study the adaptation of the rules of procedure of the Sub-Commission to the specific needs of a body of independent experts and to make proposals to that end if it deems fit".

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Forty-second session
Agenda item 5 (b)

ELIMINATION OF RACIAL DISCRIMINATION

ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA

Administrative and programme budget implications of the draft resolution contained in document E/CN.4/Sub.2/1990/L.9

Statement submitted by the Secretary-General in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council

A. Requests contained in the draft resolution

1. By operative paragraph 3 of draft resolution E/CN.4/Sub.2/1990/L.9 to be adopted by the Economic and Social Council, the Special Rapporteur would be invited:

(a) To continue to update, subject to annual review, the list of banks, transnational corporations and other organizations assisting the racist régime in South Africa, giving such details regarding enterprises listed as the Special Rapporteur may consider necessary and appropriate, including explanations of responses, if any, and to submit the updated report through the Sub-Commission to the Commission on Human Rights;

(b) To use all available material from other United Nations organs, Member States, specialized agencies and other relevant sources in order to indicate the volume, nature and adverse human consequences of the assistance given to the racist régime of South Africa;

(c) To intensify direct contacts with the United Nations Centre on Transnational Corporations and the Centre against Apartheid, with a view to consolidating mutual co-operation in updating his report.

B. Relationship of proposed requests to the programme of work

2. The activities referred to above would fall under chapter 6, section II, "Programme: Centre for Human Rights", subprogramme 2, "Elimination and prevention of discrimination and protection of minorities and vulnerable groups", the objectives of and the strategy for which are described in paragraph 6.27 of the medium-term plan for the period 1984-1989 (A/37/6) as extended through 1991 (A/43/6 and Corr.1).

3. The activity is included in the programme budget for the biennium 1990-1991 under the following programme element of section 23 (Human Rights):

Programme element 2.1 - Elimination and prevention of discrimination and protection of minorities and vulnerable groups

Output: (xiii) Preparation of two updated reports for submission to the General Assembly, through the Commission on Human Rights and the Sub-Commission, containing a list of organizations, banks and transnational corporations giving assistance to the racist régime in South Africa, pursuant to General Assembly resolution 43/92.

C. Activities by which the requests would be implemented

4. It is envisaged that the Special Rapporteur would travel from Cairo to New York for a period of five working days in the early part of 1991 in order to establish direct contacts with the Centre on Transnational Corporations and the Centre against Apartheid. Later in 1991 the Special Rapporteur would travel from Cairo to Geneva for five working days for consultations with the Centre for Human Rights. As requested in paragraph 7 of the draft resolution, the services of two economists to help him develop his analysis and documentation on specific cases of special importance would be required. It has been noted that in accordance with the Economic and Social Council decision 1988/129, the mandate of the Special Rapporteur was renewed for a period of two years covering 1990 and 1991.

D. Modifications required in the approved programme of work

5. No modification is required in the programme of work approved for 1990-1991, since this activity appears under programme element 2.1.

E. Additional requirements at full cost

6. The estimated cost of the above programme of work is itemized as follows:

	1991 (US dollars)
Travel and subsistence costs for the Special Rapporteur	5 500
Consultant economists to assist the Special Rapporteur with analytical work (for a period of 4 months)	20 000
	25 500

7. The relevant costs to be financed under section 23 (Human Rights) are estimated at $25,500 for 1991.

F. Potential for absorption

8. This resolution is considered to be within the scope of perennial activities and resources therefore will be provided from the existing provision for the Economic and Social Council mandates under section 23 (Human Rights), thus making it unnecessary to request any additional appropriation or to have recourse to the contingency fund. The travel and subsistence costs estimated at $5,500 were previously included in the programme budget implications approved by Economic and Social Council in its decision 1990/34. With regard to consultancy costs estimated at $20,000, the Centre will endeavour to absorb these costs from within existing resources.

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RETURN TO DOCUMENTS

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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-second session
Agenda item 18

PROTECTION OF MINORITIES

Administrative and programme budget implications of the draft resolution contained in document E/CN.4/Sub.2/1990/L.8/Rev.1

Statement submitted by the Secretary-General in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council

A. Requests contained in the draft resolution

1. By operative paragraph 5 of draft resolution E/CN.4/Sub.2/1990/L.8/Rev.1 to be recommended for adoption by the Commission on Human Rights, the Commission would decide to endorse the methods proposed by Mr. Eide, subject to his taking into account the observations by members of the Sub-Commission, for the further study of facilitating the peaceful and constructive solution of problems involving minorities, and to request the Secretary-General to give Mr. Eide all the assistance which he may require, including: the assistance of a consultant for the compilation of information obtained from State reports and replies to questionnaires; contacts with Governments for detailed information on measures of particular relevance and interest; and the convening of a technical meeting with other recognized specialists in this field for the purpose of refining the criteria which may be used for evaluating national experience and identifying positive models.

B. Relationship of requests to programme of work

2. The activities referred to above fall under chapter 6, section II, "Programme: Centre for Human Rights", subprogramme 4, "Standard setting, research and studies", the objectives of and the strategy for which are described in paragraphs 6.38 and 6.40 of the medium-term plan for the period 1984-1989 (A/37/6) as extended through 1991 (A/43/6 and Corr.1).

GE.90-13377/7564A

3. The activity is included in the programme budget for the biennium 1990-1991 under the following programme element of section 23 (Human Rights):

Programme element 4.2 -	Research and studies
Intermediate Output:	Assistance to Special Rapporteurs or experts for the preparation of 15 reports, studies and working papers mandated by policy-making organs

C. Activities by which the requests would be implemented

4. In order to carry out the requests contained in the draft resolution, the following activities are envisaged. These activities are based on a basic plan that the Special Rapporteur proposes to follow in carrying out his mandate. This plan represents a tentative outline; the Special Rapporteur may therefore require additional resources in the implementation of his mandate, although every effort will be made to keep within the parameters set out in this document.

(a) Information will have to be compiled on national arrangements for minorities as described in replies to a questionnaire that will be sent for the Special Rapporteur, as contained in States Parties reports to treaty-based bodies, and as resulting from research conducted in accordance with the outline of the Special Rapporteur.

This is anticipated to require the services of a specialist in the field of minority rights, for an estimated duration of three months in 1991 and again in 1992.

(b) Contacts with governments are to be established by the Special Rapporteur which are anticipated to necessitate visits to an estimated three capitals to seek further views and information from governments.

(c) The convening of a meeting of experts to examine information and to exchange views on progress reports of the Special Rapporteur prior to the submission of his final report to the Sub-Commission. This would be a technical meeting of an estimated six experts (convened in their personal expert capacity); the meeting would take place for an estimated duration of three working days in autumn of 1991 in Geneva, the experts coming from eastern Europe, south Asia, Africa, Latin America, North America and western Europe.

(d) Consultations by the Special Rapporteur with the Centre for Human Rights at Geneva for an estimated one week on two occasions.

D. Modifications required in the programme of work

5. A new output would have to be added: Subprogramme 4, programme element 4.2 - Research and studies, output (xvi), Substantive servicing of a meeting of human rights specialists.

E. Additional requirements at full cost

6. The estimated cost of the programme of work is itemized as follows:

	1991	1992
	(US dollars)	
Three round trips to three capitals of the Special Rapporteur for consultations with governments (five working days each time)		
Travel and subsistence	5 000	2 500
Two round trips to Geneva of the Special Rapporteur for consultations at the Centre (five working days)		
Travel and subsistence	2 600	2 600
One round trip to Geneva of six Experts to attend a technical meeting (three working days)		
Travel and subsistence	15 000	-
Consultancy services		
Services of a specialist in minority rights		
Three work-months (at P-3 level)	16 500	
Three work-months (at P-3 level)		16 500
	39 100	21 600

7. The relevant costs to be financed under section 23 (Human Rights) are estimated at $39,100 for 1991 and $21,600 for 1992.

8. Conference servicing costs to be financed under section 29 B (Conference Services Division, Geneva) are estimated at $..... 1/ for 1991.

F. Potential for absorption

9. The decision as to whether this resolution could be implemented - either from existing resources, or be requested from the contingency fund, or through modifications of existing activities, or termination or postponement of low priority activities - would have to be taken at the level of the Commission on Human Rights for further submission to the Economic and Social Council.

1/ Information not yet available.

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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention
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Forty-second session
Agenda item 3

REVIEW OF THE WORK OF THE SUB-COMMISSION

Amendments to draft resolution E/CN.4/Sub.2/1990/L.4
submitted by Mr. Joinet

Footnote to rule 59 of the Rules of Procedure of the
Functional Commissions of the Economic and Social Council

1st amendment: At the end of the first preambular paragraph, insert the word "independent" before the word "experts,";

2nd amendment: Replace the third, fourth and fifth preambular paragraphs by the following paragraph:

Recalling the Advisory Opinion of the International Court of Justice of 15 December 1989, in particular paragraphs 43, 47, 50, 51, 52, 54 and 55, according to which experts' independence should be ensured in the interest of the United Nations";

3rd amendment: In the sixth preambular paragraph, replace the word "ensure" by the word "strengthen";

4th amendment: In the seventh preambular paragraph, the end of the paragraph should read as follows: "dated 14 February 1984 and 30 July 1989";

5th amendment: In the part of the draft resolution that is recommended for adoption by the Commission on Human Rights, the four preambular paragraphs should be worded in conformity with preambular paragraphs 1, 3, 4, 5, 6 and 7, as amended, in the preamble above;

6th amendment: In paragraph 1 of the part of the draft resolution recommended for adoption by the Commission on Human Rights, replace the word "amend" by the word "interpret";

7th amendment: The first preambular paragraph of the draft resolution recommended for adoption by the Economic and Social Council should be worded in conformity with preambular paragraph 7 as amended by the 4th amendment;

8th amendment: At the end of the last paragraph of the resolution, insert the words "allegations concerning" between the words "pertaining to" and "violations of human rights".

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UNITED NATIONS

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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention
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Forty-second session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Ms. Bautista, Mr. van Boven, Ms. Daes, Mr. Despouy, Mr. Eide, Mr. Hatano, Mr. Joinet, Ms. Palley, Mr. Suescún Monroy, Mr. Treat, Ms. Warzazi and Mr. Yimer

1990/... Assassination of Professor Kazem Rajavi on political grounds

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming that everyone has the right to life, liberty and security of person,

Recalling article 3 of the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights,

Profoundly disturbed by the assassination in Coppet, Switzerland, on 24 April 1990 of Professor Kazem Rajavi, a former Iranian diplomat, living in exile in Switzerland,

Mindful that the late Professor Rajavi was a dedicated human rights defender and activist,

1. Pays tribute to his memory and praises his dedication and struggle for the promotion and protection of human rights and fundamental freedoms;

2. Condemns strongly the assassination of Professor Kazem Rajavi as well as every assassination of political dissidents wherever they live, including in their own country;

3. Expresses the sincere wish that all facts and circumstances will be fully investigated and revealed with respect to this serious crime;

4. Expresses also the wish that the Special Representative, Mr. Galindo Pohl, will include information available to him on this investigation in his next report.

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UNITED NATIONS

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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-second session
Agenda item 10

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

Draft resolution submitted by Mr. Guissé, Mr. Hatano, Mr. Joinet, Mr. Suescún Monroy and Mr. Türk

Draft declaration on the protection of all persons from enforced or involuntary disappearances

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling General Assembly resolution 33/173 of 20 December 1978 by which the Assembly expressed concern about the reports from various parts of the world relating to enforced or involuntary disappearances and called upon Governments to hold law enforcement and security forces legally responsible for unjustifiable excesses which might lead to enforced or involuntary disappearances,

Recalling also Commission on Human Rights resolution 1990/30 of 2 March 1990, by which the Commission expressed its appreciation to the Working Group on Detention of the Sub-Commission for the progress made in the preparation of the first draft of a declaration on the protection of all persons from enforced or involuntary disappearances and invited the Sub-Commission to finalize the draft as soon as possible,

Recalling further the reports of the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights (E/CN.4/1985/15, para. 302 (c) and E/CN.4/1988/19, para. 251 (b)) in which it called for the drafting of an international instrument to combat enforced or involuntary disappearance,

Having examined the report of its Working Group on Detention (E/CN.4/Sub.2/1990/32) and, in particular, the annexed draft declaration on the protection of all persons from enforced or involuntary disappearances, which the Working Group has recommended for approval,

1. Expresses its appreciation for the work achieved by the Working Group on Detention;

2. Adopts the draft declaration on the protection of all persons from enforced or involuntary disappearances (E/CN.4/Sub.2/1990/32, annex);

3. Transmits the draft declaration to the Commission on Human Rights for its consideration, with the recommendation that it be endorsed and transmitted to the Economic and Social Council and the General Assembly for final adoption.

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COMMISSION ON HUMAN RIGHTS

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Forty-second session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Mr. van Boven, Ms. Daes, Mr. Despouy, Mr. Eide, Mr. Guissé, Mr. Ilkahanaf, Mr. Joinet and Ms. Palley

Situation in Cambodia

The Sub-Commission on Prevention of Discrimination and Protection of Minorities

Guided by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the universally accepted rules on international humanitarian law,

Alarmed by recent and repeated allegations of gross violations of human rights and acts which contravene the Fourth Geneva Convention and international refugee law, including refoulement and the forced relocation of women and children from border camps to combat zones,

Convinced that the fundamental rights of all persons must be respected to ensure the realization of a viable political settlement,

Mindful of the atrocities reaching the level of genocide committed in particular during the period of Khmer Rouge rule from 1975 to 1978,

Mindful also of the analysis of the situation prepared for the thirty-first and thirty-second sessions of the Sub-Commission by its Expert Member, Mr. A. Bouhdiba, and its resolution 11 (XXXI) of 15 September 1978,

1. Appeals to all States, in accordance with General Assembly resolution 3074 (XXVIII) of 3 December 1973 entitled "Principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity", to take all steps called for in that resolution to detect, arrest, extradite or bring to trial those who have been responsible for crimes against humanity committed in Cambodia;

2. Calls on all parties involved in the search for a peaceful settlement and the establishment of a democratic political system in Cambodia to take all necessary safeguards to prevent the return to government positions of those who were responsible for genocidal actions during the period 1975 to 1978;

3. Requests the Secretary-General to submit a report to the forty-seventh session of the Commission on Human Rights on the human rights and humanitarian dimensions of the situation of Cambodians in camps along the Thai-Cambodian border based on information obtained from all reliable sources including the United Nations Border Relief Operation, the Coalition Government of Democratic Kampuchea, and other parties involved.

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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-second session
Agenda item 14

ENCOURAGEMENT OF UNIVERSAL ACCEPTANCE OF HUMAN RIGHTS INSTRUMENTS

Draft resolution submitted by: Ms. Bautista, Mr. Chernichenko, Ms. Daes, Mr. Eide, Mr. Hatano, Mr. Heller, Ms. Ksentini, Mr. Treat, Ms. Warzazi, and Mr. Yimer

Encouragement of universal acceptance of human rights instruments

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1 B (XXXII) of 5 September 1979, 19 (XXXIV) of 10 September 1981, 1982/3 of 7 September 1982, 1983/27 of 6 September 1983, 1984/36 of 30 August 1984, 1985/5 of 27 August 1985, 1988/30 of 1 September 1988 and its decision 2 (XXXIII) of 11 September 1980 on the encouragement of universal acceptance of human rights instruments,

Having considered the Note by the Secretary-General (E/CN.4/Sub.2/1990/38) on the present item, which states inter alia that

"No additional information has been received from States pursuant to Sub-Commission resolution 1 B (XXXII) since the Sub-Commission's fortieth session",

Convinced that attaining universal acceptance and implementation of international instruments in the field of human rights is of primary importance for the protection and promotion of human rights,

1. Decides to include the Convention on the Rights of the Child in the list of human rights instruments under paragraph 1 of the Sub-Commission resolution 1 B (XXXII), as complemented by resolutions 1982/3, 1983/27, 1984/36 and 1985/5;

2. Expressing its appreciation for the programme of advisory services in the field of human rights by which the ratification of, or accession to, the international instruments on human rights have been accelerated;

3. Requests the Secretary-General to further promote the said programme so that practical assistance in the process of ratification and implementation of international instruments on human rights will be available for those States which indicate a need for such assistance;

4. Requests the Secretary-General to renew the invitation for submission of information communicated by his earlier notes verbales to the Governments of Member States which have not yet replied to those communications, making particular reference to the human rights instruments to which those Governments have not yet become party and drawing the attention of each Government to the instruments which it has already signed but not ratified;

5. Requests also the Secretary-General to continue holding informal discussions concerning prospects for ratification of human rights instruments, with government delegations on the occasion, for example, of the sessions of the General Assembly and the Commission on Human Rights, priority being given to the instruments prepared by the Commission on Human Rights such as the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the First Optional Protocol to that Covenant; the International Convention on the Elimination of all Forms of Racial Discrimination; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child;

6. Requests further the Secretary-General to continue to inform the Sub-Commission as appropriate on his endeavours under the present resolution and to update the table containing a country-by-country record of developments which have taken place in connection with the ratification of, or accession to, the human rights instruments included in the terms of reference of the Sub-Commission;

7. Decides to request the Chairman of the Sub-Commission to appoint, prior to its forty-fourth session, one of its members to report to it at its forty-fourth session on information received under the present resolution, to analyse difficulties impeding ratification of, or accession to, the above-mentioned instruments and to assess the programme of advisory services in the field of human rights with a view to further encouraging universal acceptance of human rights instruments;

8. Decides to continue the consideration of the agenda item entitled "Encouragement of universal acceptance of human rights instruments" at its forty-fourth session and at subsequent alternate sessions of the Sub-Commission.

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Forty-second session

Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Ms. Bautista, Mr. van Boven, Ms. Daes, Mr. Eide, Ms. Palley and Mr. Treat

Situation of human rights in the Islamic Republic of Iran

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting Commission on Human Rights resolution 1990/79 of 7 March 1990 and numerous earlier resolutions on the Islamic Republic of Iran and Sub-Commission resolutions 10 (XXXIII) of 10 September 1981, 8 (XXXIV) of 9 September 1981, 1982/25 of 8 September 1982, 1983/14 of 5 September 1983, 1984/14 of 29 August 1984, 1985/17 of 29 August 1985, and, in particular, resolutions 1987/12 of 1 September 1987 and 1989/10 of 31 August 1989,

Considering numerous resolutions of the General Assembly and the Commission on Human Rights,

Deeply concerned at the deteriorating situation of human rights in the Islamic Republic of Iran since the visit by the United Nations Special Representative, Mr. Galindo Pohl, and at reports of the arrest, torture and execution of a large number of political and ordinary prisoners,

Concerned also at reports of grave violations of the rights and freedoms of women, especially regarding choice of clothing and occupation, and at their treatment as second-class citizens,

1. Expresses its deep concern about the grave violations of human rights in the Islamic Republic of Iran, namely those related to the right to life, the right to freedom from torture and from cruel, inhuman and degrading treatment or punishment, the right to liberty and security of person, the right to a fair trial, and the right to freedom of thought, conscience, religion, and expression and urgently calls upon the Commission on Human Rights to convey its concern to the Islamic Republic of Iran;

2. Expresses its grave concern at the reports of the continuing wave of arrests and executions;

3. Requests the Secretary-General to inform the Sub-Commission, at its forty-third session, of relevant reports by other Special Rapporteurs or bodies in the field of human rights, as well as of steps which have been and are being taken by the General Assembly, the Economic and Social Council and the Commission on Human Rights to prevent violations of human rights in the Islamic Republic of Iran;

4. Decides to consider the situation of human rights in the Islamic Republic of Iran at its forty-third session.

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E

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Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Mr. van Boven, Mr. Chernichenko, Ms. Daes, Mr. Despouy, Mr. Eide, Mr. Guissé, Mr. Hatano, Mr. Heller, Mr. Ilkahanaf, Mr. Joinet, Mr. Khalil, Ms. Ksentini, Mr. Maxim, Ms. Mbonu, Ms. Palley, Mr. Sachar, Mr. Sadi, Mr. Tian Jin, Mr. Treat, Ms. Warzazi and Mr. Yimer

1990/... Situation in South Africa

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling the Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted on 14 December 1989 by the General Assembly in its resolution S-16/1,

Recalling further Commission on Human Rights resolutions 1989/4 and 1989/5 of 23 February 1989, and 1990/26 of 27 February 1990,

Mindful of General Assembly resolution 33/165 of 20 December 1978 on the status of persons refusing service in military or police forces used to enforce apartheid,

Welcoming the recent positive developments in South Africa resulting from the policy measures introduced by the Government of South Africa following internal and international pressure,

Noting with concern that the institutionalized political pillars of apartheid have not been dismantled and are still intact,

Deeply concerned over the brutal repression, continued incarceration of political prisoners and political trial of opponents of apartheid,

Gravely concerned over the continued military co-operation between South Africa and some foreign Governments,

Noting further with grave concern the decision by some countries to lift or relax sanctions and other forms of pressure against South Africa when the pillars of apartheid are still in place,

Conscious of the great courage, perseverance and sacrifices of the people of southern Africa in the face of aggression, occupation and oppression by the Pretoria régime,

Welcoming once again the establishment and launching of the Action for Resisting Invasion, Colonialism and Apartheid Fund (A/41/697-S/18392) at the Eighth Conference of the Heads of State or Government of Non-Aligned Countries,

1. Reaffirms that apartheid is a crime against humanity;

2. Reaffirms further the right of all persons to refuse service in military or police forces which are used to enforce apartheid;

3. Condemns the continued arrest, torture and killings of peaceful and defenceless demonstrators and workers on strike as well as the arbitrary arrest of leaders and activists of mass organizations;

4. Insists that South Africa immediately bring to an end its policy of destabilization against its neighbours, including the halt of all forms of support to the armed groups;

5. Welcomes the introduction of the policy measures by the Government of South Africa which have resulted, inter alia, in the unbanning of the African National Congress, the Pan Africanist Congress of Azania and other political parties; the release of Mr. Nelson Mandela and some political prisoners; and the partial lifting of the state of emergency;

6. Reiterates the call contained in the Declaration on Apartheid and its Destructive Consequences in Southern Africa adopted on 14 December 1989 by the General Assembly in its resolution S-16/1 for, inter alia, the unconditional release of all political prisoners and detainees by the Government of South Africa; the removal of all troops from the townships;

the total lifting of the state of emergency and the repeal of all legislation designed to circumscribe political activity; the cessation of all political trials and executions;

7. Urges all States to provide, both individually and collectively, moral and material assistance to the oppressed people of South Africa;

8. Appeals to the South African Government not to proceed with the execution of the several opponents of apartheid, including the "Upington Fourteen", who have been on death row for more than two years;

9. Calls upon opponents of apartheid in South Africa to form a broad united front and demonstrate unity of purpose and concerted action for the elimination of apartheid and the establishment of a non-racial democratic South Africa;

10. Strongly urges the international community to maintain sanctions and other forms of international pressure against the Pretoria régime in order to compel it to eradicate apartheid;

11. Affirms that any relaxation of pressures on South Africa now is in violation of the Declaration on Apartheid and its Destructive Consequences in Southern Africa;

12. Calls upon the international community to continue its efforts aimed at the total economic, cultural and political isolation of the South African apartheid régime until that country abandons its policy of apartheid;

13. Strongly urges those Governments that have established or are contemplating the establishment of diplomatic relations and economic ties with South Africa to reconsider their decision;

14. Vigorously condemns all collaboration, particularly in the nuclear, military and economic fields, with the Government of South Africa.

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Sub-Commission on Prevention
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Protection of Minorities
Forty-second session
Agenda item 11

INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY, JURORS AND ASSESSORS AND THE INDEPENDENCE OF LAWYERS

Draft resolution submitted by Ms. Bautista, Mr. van Boven, Mr. Chernichenko, Mr. Despouy, Mr. Guissé, Mr. Ilkahanaf, Mr. Khalil, Mr. Maxim, Mr. Sachar, Mr. Suescún Monroy and Mr. Treat

1990/... Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Convinced that an independent and impartial judiciary and an independent legal profession are essential prerequisites for the protection of human rights and for ensuring that there shall be no discrimination in the administration of justice,

Recalling Commission on Human Rights resolution 1989/32 of 6 March 1989 by which the Commission requested that the Sub-Commission consider effective means to monitor the implementation of the Basic Principles on the Independence of the Judiciary and the protection of practising lawyers,

Recalling also its own resolution 1989/22 of 31 August 1989, by which it invited Mr. Louis Joinet to prepare a working paper on means by which the Sub-Commission could monitor the implementation of the Basic Principles on the Independence of the Judiciary and the protection of practising lawyers as requested in Commission on Human Rights resolution 1989/32,

Recalling further Commission on Human Rights resolution 1990/33 of 2 March 1990, by which the Commission endorsed Sub-Commission resolution 1989/22 and requested the Sub-Commission to study the working paper with a view to recommending initiatives which could be taken to effectuate the implementation of the Basic Principles on the Independence of the Judiciary and the protection of practising lawyers,

1. Calls on Governments to strengthen the independence of the judiciary and the protection of practising lawyers;

2. Takes note with appreciation of the working paper (E/CN.4/Sub.2/1990/35) prepared by Mr. Joinet in accordance with Sub-Commission resolution 1989/22 of 31 August 1989 and Commission on Human Rights resolution 1990/33 of 2 March 1990;

3. Endorses the recommendations made in that working paper (para. 76);

4. Decides to entrust Mr. Joinet with the preparation of a report to:

(a) Make a system-wide analysis of the advisory service and technical assistance programmes of the United Nations as regards the independence of the judiciary and the protection of practising lawyers, propose means by which the co-operation between the programmes could be enhanced, and set forth guidelines and criteria to be taken into account in the provision of these services;

(b) Bring to the attention of the Sub-Commission information on legislative or judicial measures or other practices which have served to strengthen or to undermine the independence of the judiciary and the protection of practising lawyers in accordance with United Nations standards;

5. Requests the Secretary-General to provide the Rapporteur with all the assistance necessary for the completion of his task;

6. Decides to consider the above-mentioned report at its forty-third session under the agenda item entitled "Independence and impartiality of the judiciary and the independence of lawyers";

7. Recommends the following draft resolution to the Commission on Human Rights for adoption:

"The Commission on Human Rights,

Convinced that an independent and impartial judiciary and an independent legal profession are essential prerequisites for the protection of human rights and for ensuring that there shall be no discrimination in the administration of justice,

Recalling its resolutions 1989/32 of 6 March 1989, by which it requested that the Sub-Commission on Prevention of Discrimination and Protection of Minorities consider effective means to monitor the implementation of the Basic Principles on the Independence of the Judiciary and the protection of practising lawyers, and 1990/33 of 2 March 1990 in which it endorsed resolution 1989/22 of 31 August 1989 of the Sub-Commission inviting Mr. Joinet to prepare a working paper on means by which the Sub-Commission could monitor the implementation of the Basic Principles on the Independence of the Judiciary and the protection of practising lawyers as requested in Commission on Human Rights resolution 1989/32,

Having examined the work done by the Sub-Commission relating to the independence and impartiality of the judiciary and the independence of lawyers,

Having examined also the working paper (E/CN.4/Sub.2/1990/35) prepared by Mr. Joinet in accordance with Sub-Commission resolution 1989/22 of 31 August 1989;

1. Welcomes the recommendations made in that working paper (para. 76) and endorsed by the Sub-Commission in its resolution 1990/... of ... August 1990;

2. Endorses the decision of the Sub-Commission to entrust Mr. Joinet with the preparation of a report on strengthening the independence of the judiciary and the protection of practising lawyers as described in Sub-Commission resolution 1990/...;

3. Requests the Secretary-General to provide the Rapporteur with all the assistance necessary for the completion of his task;

4. Recommends the following draft decision to the Economic and Social Council for adoption:

The Economic and Social Council

'At its ... plenary meeting, on ..., the Economic and Social Council, taking note of Commission on Human Rights resolution ... of ..., endorsed the Commission's decision to welcome the decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to entrust Mr. Joinet with the preparation of a report on strengthening the independence of the judiciary and the protection of practising lawyers as described in Sub-Commission resolution 1990/..., and approved the Commission's request to the Secretary-General to give him the assistance necessary for the completion of his task.'"

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Forty-second session
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

Draft resolution submitted by Mr. Chernichenko, Ms. Daes, Mr. Eide, Mr. Hatano, Mr. Ilkahanaf, Mr. Khalil, Mr. Maxim, Mr. Treat and Ms. Warzazi

Compensation for victims of gross violations of human rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities

Recalling its resolution 1989/13 of 31 August 1990, by which it entrusted Mr. van Boven with the task of undertaking a study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms,

Recalling further Commission on Human Rights resolution 1990/35 of 2 March 1990 and Economic and Social Council resolution 1990/36 of 25 May 1990, authorizing the Sub-Commission to entrust Mr. van Boven with the task of preparing his study,

1. Takes note with appreciation of the preliminary report, including the tentative outline annexed thereto, submitted by Mr. van Boven in accordance with the above-mentioned resolutions (E/CN.4/Sub.2/1990/10);

2. Requests Mr. van Boven to prepare for the Sub-Commission, at its forty-second session, a progress report on the subject-matter, taking into account comments made in the discussion on the preliminary report at its forty-second session as well as the relevant work and recommendations of the Committee on Crime Prevention and Control, as requested in Economic and Social Council resolution 1990/22 of 24 May 1990, and undertake for this purpose the necessary consultations with the United Nations Centre for Social Development and Humanitarian Affairs;

3. Requests the Secretary-General to provide all assistance required by the Special Rapporteur to carry out his study.

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Agenda item 10(d)

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES: THE RIGHT TO A FAIR TRIAL

Draft resolution submitted by Ms. Daes, Mr. Hatano, Mr. Ilkananaf, Ms. Ksentini, Ms. Palley, Mr. Sachar, Mr. Sadi, Mr. Treat, Ms. Warzazi and Mr. Yimer

Right to a fair trial

The Sub-Commission on Prevention of Discrimination and Protection of Minorities

Recalling its resolution 1989/27 of 1 September 1989, appointing Mr. Stanislav Chernichenko and Mr. William Treat to prepare a report on the right to a fair trial,

Recalling also decision 1990/108 of the Commission on Human Rights of 7 March 1990 welcoming the appointment of the two Sub-Commission members to prepare the report,

1. Takes note with appreciation of the brief report prepared by Mr. Stanislav Chernichenko and Mr. William Treat in accordance with its resolution 1989/27 of 1 September 1989;

2. Taking note of the recommendations made in that brief report (paras. 146-153);

3. Decides to entrust Mr. Chernichenko and Mr. Treat with the preparation of a study entitled "The right to a fair trial: current recognition and measures necessary for its strengthening";

4. Requests the Secretary-General to provide the two Special Rapporteurs with all the assistance they may require;

5. Recommends the following draft resolution to the Commission on Human Rights for adoption:

The Commission on Human Rights,

Guided by the Universal Declaration of Human Rights which affirms the right of every individual to a fair and public hearing by an independent and impartial tribunal,

Bearing in mind the International Covenant on Civil and Political Rights which reaffirms the equality of all persons before courts and tribunals and the right of everyone to a fair and public hearing,

Noting the fair trial provisions in the African Charter on Human and Peoples' Rights, the American Convention on Human Rights, the European Convention on Human Rights, the Geneva Conventions Relating to the Protection of Victims of International Armed Conflict, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recalling its decision 1990/108 of 7 March 1990 welcoming the appointment of Mr. Stanislav Chernichenko and Mr. William Treat to prepare a report on the right to a fair trial,

Aware of General Assembly resolution 41/120 of 4 December 1986 regarding the development of international standards in the field of human rights,

Considering that the availability of a fair trial is essential for the protection of human rights and fundamental freedoms as well as maintaining respect for the inherent dignity of the human person,

Having examined the work done by the Sub-Commission on Prevention of Discrimination and Protection of Minorities relating to the right to a fair trial,

Having examined also the brief report on the right to a fair trial prepared by Mr. Chernichenko and Mr. Treat (E/CN.4/Sub.2/1990/34) in accordance with the Sub-Commission's resolution 1989/27 of 1 September 1989,

Welcoming the recommendations made by Mr. Chernichenko and Mr. Treat (paras. 146-153) and endorsed by the Sub-Commission in its reolution 1990___,

1. Endorses the decision of the Sub-Commission to entrust Mr. Stanislav Chernichenko and Mr. William Treat with the preparation of a study entitled "The right to a fair trial: current recognition and measures necessary for its strengthening";

2. Requests the Secretary-General to provide the two Special Rapporteurs with all the assistance they may require;

3. Requests the two rapporteurs to draft a questionnaire on the right to a fair trial;

4. Requests the Secretary-General to transmit the questionnaire with the brief report to Governments, specialized agencies, and non-governmental organizations in consultative status with the Economic and Social Council for their response and comments and requests the Secretary-General to transmit the responses to the Special Rapporteurs for consideration in connection with their study;

Recommends the following draft resolution to the Economic and Social Council for adoption:

The Economic and Social Council,

Recalling decision 1990/108 of the Commission on Human Rights Committee of 7 March 1990 welcoming the appointment of the two rapporteurs on the right to a fair trial and the Commission on Human Rights decision 1991/___ of ____ 1991,

Recalling also General Assembly resolution 41/120 of 4 December 1986 regarding the development of international standards,

Taking into account the brief report on the right to a fair trial prepared by Mr. Stanislav Chernichenko and Mr. William Treat (E/CN.4/Sub.2/1990/34),

1. Endorses resolution 1990/___ of the Sub-Commission deciding to entrust Mr. Stanislav Chernichenko and Mr. William Treat with the preparation of a study entitled "The right to a fair trial: current recognition and measures necessary for its strengthening," and the Commission on Human Rights resolution 1991/___;

2. Requests the Secretary-General to provide the two Special Rapporteurs with all the necessary assistance to carry out the above-mentioned study;

3. Requests the two rapporteurs to draft a questionnaire on the right to a fair trial;

4. Requests the Secretary-General to transmit the questionnaire with the working paper to Governments, specialized agencies and non-governmental organizations in consultative status with the Economic and Social Council for their response and comments and requests the Secretary-General to transmit the responses to the Special Rapporteurs for consideration in connection with their study;

5. Requests the Special Rapporteurs to produce a preliminary report based upon their study, the responses to the questionnaire and ways to formulate the basic guarantees necessary for a fair trial into an international standard like a model code, and submit it to the Sub-Commission for consideration at its forty-third session and to the Commission on Human Rights for comments at the Commission's forty-eighth session.

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Agenda item 16

CONTEMPORARY FORMS OF SLAVERY

Draft resolution submitted by Mr. Eide, Ms. Ksentini, Mr. Maxim, Mr. Sadi and Mr. Suescún Monroy

1990/... . Report of the Working Group on Contemporary Forms of Slavery

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking note of the report of its Working Group on Contemporary Forms of Slavery on the work of its fifteenth session (E/CN.4/Sub.2/1990/44),

Deeply concerned at the information relating to the exploitation of child labour, debt bondage, the sale of children, child prostitution and child pornography, the traffic in persons and the exploitation of the prostitution of others, slavery-like practices of apartheid and colonialism, and the phenomenon of child soldiers,

1. Expresses its appreciation to the Working Group on Contemporary Forms of Slavery for its valuable work, in particular the progress made at its fifteenth session in executing its programme of work, and for its continued broad approach and flexible methods of work;

A. Exploitation of child labour and debt bondage

2. Notes with satisfaction that the Working Group decided to make the problem of exploitation of child labour and of debt bondage the main theme of its fifteenth session and has defined a programme of action to combat these intolerable practices;

3. Welcomes the adoption by the General Assembly of the Convention on the Rights of the Child and calls on States to ratify it;

4. Also welcomes the forthcoming World Summit for Children to be held under the auspices of the United Nations in September 1990;

5. Requests the Commission on Human Rights to authorize it to consider the possibility of appointing a special rapporteur to update Mr. Abdelwakhab Bouhdiba's report on the exploitation of child labour and extend that study to the problem of debt bondage;

6. Invites the Secretary-General to recommend to the International Labour Organisation to consider the possibility of holding a seminar or workshop on debt bondage, in relation to and co-ordination with other organizations and agencies of the United Nations;

B. Sale of children, child prostitution and child pornography

7. Welcomes the decision of the Commission to transmit the programme of action adopted by the Working Group at its fourteenth session to Governments, intergovernmental organizations and non-governmental organizations, and requests the Secretary-General to submit an analytical summary of the replies received to the Commission at its forty-seventh session;

8. Takes note of the information and proposals relating to this programme supplied to the Working Group at its fifteenth session;

9. Decides to transmit this information and these proposals to the Commission on Human Rights and to request the Secretary-General to include them in the analytical summary;

10. Welcomes the appointment of Mr. Vitit Muntarbhorn as Special Rapporteur of the Commission on Human Rights for a term of two years, to consider matters relating to the sale of children, child prostitution and child pornography, including the problem of the adoption of children for commercial purposes;

11. Takes note of the information supplied to the Working Group on these problems and decides to transmit this information to the Special Rapporteur, including the recommendations concerning his mandate; invites the Rapporteur to examine ways and means of co-operating with the Working Group on

Contemporary Forms of Slavery and to seek the possibility of conducting his consultations with the Centre for Human Rights during the period of the sixteenth session of the Working Group on Contemporary Forms of Slavery;

12. Requests the Centre for Human Rights to obtain, for the 1991 session of the Working Group, the reports of the meetings recommended within the framework of the United Nations Educational, Scientific and Cultural Organization, the World Health Organization and other international bodies, on the traffic in persons, prostitution, the traffic in children for purposes of adoption and organ transplants, and on other subjects within the mandate of the Working Group;

C. Child soldiers

13. Expresses its deep concern at the fact that in many regions of the world children are still taking part in hostilities and are being recruited into the armed forces, and that certain Governments and non-governmental entities encourage and sometimes compel children to take military training and participate in hostilities;

14. Deplores the fact that many child soldiers have been killed or seriously wounded and that others are languishing as prisoners of war;

15. Welcomes the decision of the Working Group to place this question on the agenda for its sixteenth session and invites the Working Group to make recommendations;

D. Miscellaneous

16. Requests the Working Group to study the possibility of preparing guiding principles to combat the various contemporary forms of slavery, endeavouring to identify the spheres in which such guiding principles could be applied;

17. Recommends the Human Rights Committee, when it examines the periodic reports of States parties to the International Covenant on Civil and Political Rights, to give increased attention to the implementation of the provisions of articles 8 and 24 of the Covenant, with a view to the elimination of acts which gravely impair the rights of the child, in particular contemporary forms of slavery;

18. Recommends to the Committee on Economic, Social and Cultural Rights, when it examines the periodic reports of States parties to the International Covenant on Economic, Social and Cultural Rights, to give particular attention to the implementation of articles 10, 12 and 13, with a view to improving the situation of children and eliminating the contemporary forms of slavery affecting children and the exploitation of child labour;

19. Recommends to the Committee on the Elimination of Discrimination against Women, when it examines the reports of States parties to the Convention on the Elimination of All Forms of Discrimination against Women, to give particular attention to the implementation of the provisions of article 6, with a view to the suppression of all forms of traffic in women;

20. Recommends to the International Labour Organisation supervisory bodies and the United Nations Educational, Scientific and Cultural Organization Committee on Conventions and Recommendations to give particular attention in their work to the implementation of provisions and standards designed to ensure protection of children and other persons exposed to contemporary forms of slavery, such as the sale of children, child prostitution and child pornography, the exploitation of child labour, bonded labour and the traffic in persons;

21. Recommends to the Committee on the Rights of the Child, which is to be set up in accordance with article 43 of the Convention on the Rights of the Child, to devote full attention to the phenomena which most gravely impair the rights of the child, in particular contemporary forms of slavery such as the sale of children, child prostitution and child pornography, the exploitation of child labour and bonded labour.